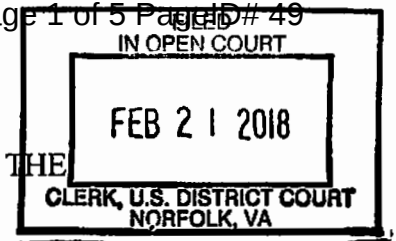


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Newport News Division



UNITED STATES OF AMERICA)	
)	
v.)	No. 4:17cr127
)	
JOSHUA DAVID AUSTIN,)	
)	
Defendant.)	

STATEMENT OF FACTS

The United States and the defendant, JOSHUA DAVID AUSTIN, agree that at trial, the United States would have proven the following facts beyond a reasonable doubt with admissible and credible evidence:

1. The Federal Bureau of Investigation is an agency within the Department of Justice of the United States and has jurisdiction to investigate crimes involving the sexual exploitation of children. From approximately December 23, 2016 to January 4, 2017, a Special Agent with the FBI in Newport News, Virginia, on different dates, used internet-connected computers and launched programs to search for image and video files involving the sexual exploitation of children. Between approximately December 23, 2016 and January 4, 2017, the law enforcement official downloaded six partial files whose titles were indicative of child pornography from a certain IP address located in Newport News, Virginia. The titles included the following terms: "Pthc," "Ptsc," Jenny 9Yo," and "Pedoland."

2. Based on the partial file downloads, FBI Special Agent Stacey Sullivan contacted other law enforcement agents to determine whether the agents had downloaded files containing child pornography from the particular IP address in Newport News, Virginia. On January 11, 2017, FBI Special Agent Sullivan received a thumb drive containing 15 images depicting child

D 10
NMC

pornography from Loudoun County Police Department Detective Patrick Beaver. The particular IP address in Newport News, Virginia distributed the images depicting child pornography between December 23, 2016 and December 30, 2016. On December 23, 2016, a law enforcement official from Loudoun County Police Department downloaded an image of child pornography entitled "pthc_ptsc_9o_jenny in nylons and collar tied up.jpg." This image contains child pornography, and specifically, depicts a pre-pubescent female lying on a bed. She is wearing black thigh highs, her ankles are bound to her thighs with yellow rope, and her hands are bound together above her head with yellow rope. Her genitals are exposed, and displayed in a lewd and lascivious manner.

3. On January 12, 2017, FBI Special Agent Sullivan received a disc containing approximately ten images depicting child pornography from Virginia State Police Special Agent Chad Morris. Those files had been distributed by the particular IP address in Newport News, Virginia to the Virginia State Police on December 30, 2016.

4. A subsequent investigation found that all of the above-noted downloads referenced in paragraphs 1, 2, and 3 came from residence located at an address on Brentwood Drive in Newport News, Virginia. At the time of the above-noted downloads, JOSHUA DAVID AUSTIN (hereinafter "AUSTIN"), the defendant herein, resided at the above-noted address in Newport News, Virginia.

5. On March 2, 2017, FBI Special Agent Stacey Sullivan obtained a federal search warrant for AUSTIN's residence in Newport News. On March 9, 2017, agents and Task Force Officers (TFOs) with the FBI, along with agents from the Department of Homeland Security, Homeland Security Investigations (DHS-HSI) and officers from the Newport News Police Department, conducted a search of AUSTIN's residence pursuant to a lawfully obtained search warrant and seized media storage devices.

6. During the March 9, 2017 search, HSI Special Agent Paul Wolpert and FBI Special Agent Stacey Sullivan spoke with AUSTIN. The agents advised AUSTIN that a federal search warrant was being executed at his residence. HSI Special Agent Wolpert advised AUSTIN of his *Miranda* rights, and after being advised of his rights, AUSTIN agreed to speak with the agents.

7. AUSTIN told the interviewing agents that he was familiar with Bittorrent software and had used Bittorrent downloader on his computer. AUSTIN further advised that no one else uses his computer, and that he had CCleaner on his desktop computer. CCleaner is a program used to delete files and Windows Registry entries from a computer.

8. AUSTIN stated that he had been viewing child pornography for a few months, and that he gets a thrill out of looking at something he is not supposed to view. He described searching for files containing child pornography by searching ages and through using terms he had seen in other child pornography files he had viewed. He recognized terms such as "PTHC" and "9yo" as terms he had searched previously. AUSTIN stated that he did not have a collection of child pornography stored on his computer, and that he would view image or video files of child pornography, and then delete them. AUSTIN understood that he was sharing files on the file sharing program. He stated that he knew that once he deleted the torrent, he would no longer be sharing a file, but that he knew he was sharing a file until he had deleted it. AUSTIN stated that he last viewed child pornography a couple times the week prior to the execution of the federal search warrant, then deleted files out of his shared folder.

9. On April 12, 2017, Department of Justice Forensic Examiner, R. E. Jones completed a forensic analysis on the electronic media seized from the defendant's residence, including a I Buy Power desktop, Model I series 301, computer. The registered owner of the computer was "Josh." Located on this desktop computer was forensic evidence that the computer

had been utilized to obtain child pornography, and the defendant's desktop computer was manufactured outside the Commonwealth of Virginia. Specifically, CCleaner was located within his program files. LNK files and Torrent file fragments containing terms associated with child pornography, including "pthc," "Pedo," and "9yo" were also recovered.

10. The defendant's desktop computer, throughout the time periods delineated in the Indictment, had access to the Internet, which is an interconnected network of computers with which one communicates when online, and this network crosses state and national borders, and is a facility of interstate and foreign commerce. The defendant acknowledges that he utilized his desktop computer to distribute the image of child pornography detailed in Count 2 of the indictment to a law enforcement agent on December 23, 2016.

11. The defendant admits that he knowingly distributed the following image that depicts child pornography, as detailed in Count 2 of the Indictment. Specifically, the defendant, JOSHUA DAVID AUSTIN, admits that on December 23, 2016, in the Eastern District of Virginia, he knowingly distributed material containing an image of child pornography as defined by 18 U.S.C. § 2256(8)(A), to wit: an image entitled "pthc_ptsc_9o_jenny in nylons and collar tied up.jpg," depicting actual and simulated lascivious exhibition of the genitals or pubic area of a prepubescent female minor and sadistic and masochistic abuse of a prepubescent female minor. The defendant admits that this image had been mailed and shipped and transported in interstate and foreign commerce by any means, including by a computer. The defendant further admits that the image constitutes "child pornography," as defined in Title 18, United States Code, § 2256 (2)(A)-(B) and (8).

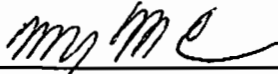
12. The defendant stipulates and agrees that his participation in the events described was undertaken knowingly, intentionally, and unlawfully and not as a result of an accident,

mistake, or other innocent reason. The defendant further acknowledges that the foregoing statement of facts does not describe all of his conduct relating to the offenses charged in this case.

Respectfully submitted,

Tracy Doherty-McCormick
Acting United States Attorney

By:

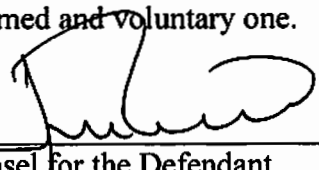

Megan M. Cowles
Assistant United States Attorney

After consulting with my attorney and pursuant to the plea agreement entered into this day between JOSHUA DAVID AUSTIN and the United States, I hereby stipulate that the above Statement of Facts is a partial summary of the evidence which is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.


JOSHUA DAVID AUSTIN
Defendant

2/21/18
Date

I am JOSHUA DAVID AUSTIN's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.


Counsel for the Defendant

2/21/18
Date